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Letter dated 11 August 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 21 May 2003 (S/2003/584).

The Counter-Terrorism Committee has received the attached third report from the Republic of Uzbekistan submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 19 August 2003 from the Permanent Representative of Uzbekistan to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

With reference to your letter dated 9 May 2003 containing the preliminary comments and questions of the Counter-Terrorism Committee concerning the report of the Government of the Republic of Uzbekistan submitted pursuant to paragraph 6 of Security Council resolution 1373 (2001) and in addition to my letter dated 8 August 2003, I have the honour to enclose the reply of the Government of Uzbekistan to those comments and questions (see enclosure).

(*Signed*) Alisher **Vohidov**
Permanent Representative

Enclosure

[Original: Russian]

Clarification of "implementation measures" proposed by the United Nations Counter-Terrorism Committee

Paragraph 1.2

Under article 155 of the Criminal Code of the Republic of Uzbekistan, terrorism is considered not only violence, the use of force, other actions creating a danger to persons or property, or the threat of such actions, undertaken with a view to forcing a State body, an international organization or their officials, individuals or legal entities to carry out, or to refrain from carrying out, any activity with the aim of complicating international relations, violating sovereignty and territorial integrity, undermining State security, provoking war or armed conflict, destabilizing the social and political situation or alarming the population, but also activities aimed at maintaining the existence, functioning or financing of a terrorist organization, the preparation and commission of terrorist acts, as well as the direct or indirect provision or collection of any funds, resources or other services for terrorist organizations or persons who assist or participate in terrorist activities.

Paragraph 1.3

Under article 290 of the Code of Criminal Procedure, in cases where inhabited or uninhabited buildings, regardless of the form of ownership, are used to commit offences — high treason, an attack on the constitutional order or against the President of the Republic; terrorism or sabotage; or these offences are accompanied by premeditated murder, assault, robbery or other serious or grave offences — such buildings are subject to seizure. Seizure means that the proprietor or owner of the property is informed that he is prohibited from managing the property and if necessary, from using the property, or the property is confiscated and transferred to other individuals for safekeeping.

It should, however, be noted that legislation on criminal procedure in force in the Republic of Uzbekistan does not provide for procedural action allowing steps to be taken to freeze or seize funds of illicit origin, such as those used to finance terrorism. Article 290 of the Code of Criminal Procedure of the Republic of Uzbekistan may not be invoked in such case.

In this regard, proposals for supplementing the Criminal Code and Code of Criminal Procedure have now been drafted in order to enable the provisions of international legal instruments to be implemented, especially United Nations resolutions concerning various aspects of the fight against international terrorism.

Paragraph 1.4

It should be noted that the Government of the Republic of Uzbekistan is currently taking steps to draft a bill on measures to prevent the legalization of illicit financial assets and to combat the financing of terrorist activities. Accordingly, pursuant to the Timetable of measures to implement the plan of action to ensure convertibility of the national currency for routine international transactions, approved on 27 June 2003 by the Deputy Prime Minister of the Republic of

Uzbekistan, the Department of Foreign Economic Links and Foreign Investments under the Cabinet of Ministers has been entrusted — jointly with relevant ministries and departments and in cooperation with International Monetary Fund experts — with the task of drafting a bill by 15 September 2003 on steps to prevent the legalization of illicit financial assets and combat the financing of terrorist activities.

Paragraph 1.5

In the Republic's territory, non-cash money transfers can only be made in the form of payment orders, letters of credit, encashment or cheques. Non-cash transactions may also be made by means of credit cards (in accordance with the revised Statute No. 1122 of 15 April 2002 on non-cash transactions in the Republic of Uzbekistan).

Under current legislation and banking practice, alternative forms of transferring money such as *hawala* do not exist.

Paragraph 1.6

In accordance with article 28 of the Act on non-State non-profit organizations, a non-State non-profit organization may own buildings, installations, residential property, equipment, appliances and financial assets, including foreign currency, securities and other assets.

Under article 29, a non-State non-profit organization may have the following sources of income to finance its assets:

- Enrolment or membership dues, if provided for in its charter;
- One-time or regular contributions from founders or participants (members);
- Voluntary contributions of assets and donations;
- Income (profit) from business activities, used exclusively to carry out the purposes of its charter;
- Other earnings not prohibited by law.

Under article 15 of the Act on freedom of conscience and religious organizations, religious organizations may own buildings, structures, objects of worship, premises for industrial, social and charitable purposes, financial and other assets necessary to its functioning — acquired or created with their own resources; donated (bequeathed) by citizens or public associations; or transferred by the State; as well as assets located abroad and acquired in other ways provided for by law.

In accordance with article 75 of the Civil Code and articles 8 and 12 of the Act on non-State, non-profit organizations, a public fund is required to observe the law, use its assets for the purposes set out in its charter and ensure that information on the use of its assets and funds is accessible. The fund is required to publish an annual report on the use of its assets.

In accordance with article 53 of the Civil Code, a legal entity may be liquidated by a court decision if it conducts activities prohibited by law.

Article 29 of the Act on combating terrorism provides for the liquidation of an organization recognized as terrorist, the confiscation of its assets and the conversion of such assets to State property.

Paragraph1.7

The following explains how the Act of 15 December 2000 on combating terrorism allows Uzbekistan to prevent recruitment in its territory of members of terrorist groups intending to operate inside Uzbekistan or abroad.

Under article 5 of the Act, prevention of terrorist activities involves a set of political, socio-economic, legal and other precautionary measures on the part of State authorities, local government bodies of citizens and public associations, as well as enterprises, institutions and organizations. Pursuant to this article, the following activities are prohibited:

- Advocacy of terrorism;
- Establishment and functioning of terrorist groups and organizations; accreditation, registration and functioning of any legal entities, divisions (branches) and representations (including foreign and international organizations) involved in terrorist activities;
- Entry into the Republic of Uzbekistan of foreign nationals and stateless persons involved in terrorist activities;
- Concealment of information or facts concerning planned or committed terrorist acts.

Under article 30 of the Criminal Code, individuals who have established an organized criminal group or criminal society or who lead such groups bear responsibility for any crimes deliberately perpetrated by it. Organizers, instigators and accomplices bear the same responsibility as perpetrators under this article of the Criminal Code.

In accordance with article 29 of the Act on combating terrorism, an organization is recognized as terrorist and is subject to liquidation on the basis of a court decision.

When an organization recognized as terrorist is liquidated, its assets are confiscated and become State property.

If an international organization (division, branch, or representation) registered outside the Republic of Uzbekistan is recognized by one of the Republic's courts as terrorist, the activities of the organization (division, branch, or representation) are prohibited in the Republic's territory, the organization (division, branch, or representation) is liquidated and any assets belonging to it (or to the division, branch or representation) located in the territory of the Republic of Uzbekistan are confiscated and become State property.

Paragraph 1.8

In accordance with article 93, paragraph 19, of the Constitution of Uzbekistan, it is the President of the Republic who settles questions relating to citizenship and the granting of political asylum.

The Act on combating terrorism establishes the liability of individuals and organizations for participation in terrorist activities. Article 242 of the Criminal Code establishes liability for organization of a criminal association, i.e.

establishment or leadership of a criminal association or its divisions, as well as activities whose purpose is to maintain their existence or functioning.

Paragraph 19 of the procedures for the entry into and departure from the Republic of Uzbekistan of foreign nationals and stateless persons, approved by Cabinet of Ministers decision No. 408 of 21 November 1996, establishes the grounds for refusing foreign nationals right of entry into the Republic of Uzbekistan. A foreign national may be refused entry into the Republic of Uzbekistan:

(a) in the interests of ensuring national security or maintaining public order;

(b) if such is necessary to protect the rights and legitimate interests of citizens of the Republic of Uzbekistan and other individuals;

(c) if the individual has a conviction for a violation of the Republic's legislation that has not been cancelled or expunged in the prescribed manner;

(d) if the individual is involved in the activities of foreign terrorist, extremist or other criminal organizations;

(e) if the individual has knowingly provided false personal data, or has not submitted the necessary documents;

(f) if, during one of the individual's previous stay, he was found to have violated entry-departure procedures, the rules governing the stay of foreign nationals in the Republic of Uzbekistan, or customs, currency or other legislation of the Republic of Uzbekistan;

(g) if the individual is ill or has a health problem that creates a threat to public safety and health, and if the illness in question is included on the list approved by the Ministry of Health of the Republic of Uzbekistan.

Paragraph 1.9

Article 11 of the Criminal Code of Uzbekistan provides that an individual who has committed a crime on the territory of Uzbekistan is liable under the Code. Consequently, a criminal act committed in Uzbekistan should be recognized as such if:

(a) it is begun, finished or interrupted on the territory of Uzbekistan;

(b) it is committed outside the territory of Uzbekistan, with criminal consequences in Uzbekistan;

(c) it is committed on the territory of Uzbekistan, with criminal consequences outside Uzbekistan;

(d) it constitutes a crime committed partly on the territory of Uzbekistan, either taken as a whole, or taken in conjunction with other acts.

Liability arises under the Code if a crime is committed aboard an aircraft, seagoing craft or river craft located outside the borders of Uzbekistan and outside the territory of a foreign State if the craft in question is travelling under the flag of Uzbekistan or is registered in a port in Uzbekistan.

The liability of foreign nationals who commit a crime on the territory of Uzbekistan but who, under the terms of the laws in force or international accords or

agreements, do not fall within the jurisdiction of the courts of Uzbekistan, shall be determined in accordance with the norms of international law.

Article 12 of the Criminal Code establishes its applicability to individuals who have committed crimes outside the borders of Uzbekistan. Nationals of Uzbekistan and stateless persons permanently resident in Uzbekistan who commit a crime on the territory of another State are liable under the Criminal Code of Uzbekistan if no penalty is imposed on them by a verdict of the courts of the State in which the crime took place.

Foreign nationals and stateless persons not permanently resident in Uzbekistan will be liable under the Code for crimes committed outside the borders of Uzbekistan only in the cases provided for in international treaties or agreements.

Individuals guilty of acts of terrorism or of supporting terrorism will be held criminally liable in accordance with the appropriate article of the Criminal Code (article 155).

Uzbekistan is also a party to multilateral and bilateral agreements on combating crime and on extradition with States members of the Commonwealth of Independent States (the Russian Federation, Kazakhstan, Tajikistan, Kyrgyzstan, Turkmenistan, Azerbaijan and Moldova) and with many more distant States (including Turkey, Germany, Italy, the People's Republic of China, India, Pakistan, the Czech Republic and Bulgaria). Under the terms of those normative acts, if the secret services or law enforcement agencies of Uzbekistan receive information regarding possible terrorist acts planned by international terrorist organizations or groups in any State in the world, the country which is the potential target of terrorist acts is immediately informed through diplomatic channels and through partner links between secret services.

Paragraph 1.10

The provisions of the international conventions on civil aviation safety which Uzbekistan has ratified are regulated by the Aviation Code of Uzbekistan and by chapter XVIII of the Criminal Code, on "Crimes against the safety of traffic and the operation of transport", and, more precisely, article 204, on "The hijacking or seizure of railway rolling stock or air, seagoing or river craft", article 265, on "Violation of international aviation rules", article 266, on "Violation of the rules governing the safety of traffic and the operation of means of transport" and article 245, on "Hostage-taking".

Paragraph 1.11

Uzbekistan adheres to the principle of taking appropriate action to prevent and combat terrorism. In 2002, as part of its plan of action to combat terrorism and fulfil current obligations in that field, Uzbekistan responded to the Financial Action Task Force (FATF) questionnaire, supplying information on its laws, enforceable enactments, organizations and measures to halt and prevent money-laundering and the financing of terrorism, even though it is not a member of FATF.

In accordance with the Organization for Security and Cooperation in Europe's Forum for Security Cooperation decision No. 16/02 on expanding the questionnaire on the Code of Conduct on the Military and Political Aspects of Security,

Uzbekistan sends information on measures to prevent and combat terrorist activity to the headquarters of the organization once a year (a copy is attached).

Uzbekistan is currently preparing answers to the International Monetary Fund anti-money-laundering/combating the financing of terrorism questionnaire. The questionnaire focuses on the overall legal basis for combating money-laundering and the financing of terrorism, the distribution of responsibilities among the State institutions involved, the role of agencies supervising the financial sector and the corresponding requirements placed upon banks and other financial-sector organizations and service providers.

Annex regarding paragraph 1.11

Republic of Uzbekistan

Code of Conduct on the Military and Political Aspects of Security

Exchange of information for 2003

1. Appropriate measures to prevent and combat terrorism, and, in particular, participation in international agreements to that end (Paragraph 6)

Uzbekistan adheres to the principle of taking appropriate action to prevent and combat terrorism. It has become a party to the following international conventions:

1. Convention on Offences and Certain Other Acts Committed on Board Aircraft, 1963;

2. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, 1971;

3. Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the 1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation;

4. Convention for the Suppression of Unlawful Seizure of Aircraft, 1970;

5. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, 1973;

6. International Convention against the Taking of Hostages, 1979;

7. Convention on the Physical Protection of Nuclear Material, 1987;

8. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988;

9. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, 1988;

10. Convention on the Marking of Plastic Explosives for the Purpose of Detection, 1991;

11. International Convention for the Suppression of Terrorist Bombings, 1997;

12. International Convention for the Suppression of the Financing of Terrorism, 1999.

To combat and prevent terrorism in the Republic, Uzbekistan adopted the *Act on combating terrorism of 15 December 2000.*

Counter-terrorism powers of State bodies

Article 8. State bodies responsible for combating terrorism

The State bodies engaged in combating terrorism are:

The National Security Service;

The Ministry of Internal Affairs;

The Committee on the Protection of the State Border;

The State Customs Committee;

The Ministry of Defence;

The Ministry of Emergency Situations.

The National Security Service coordinates the activities of the State bodies involved in combating terrorism and ensures that they work together to prevent, detect and halt terrorist activity and minimize its effects.

Article 9. Counter-terrorism powers of the National Security Service of the Republic of Uzbekistan

The National Security Service of the Republic of Uzbekistan shall:

Combat terrorism, including international terrorism, by preventing, detecting and halting terrorist activities;

Collect and analyse information on the activities of terrorists, terrorist groups and terrorist organizations, assess the threats posed by them to national security and provide the relevant ministries, State committees and departments with the necessary information;

Provide protection for particularly important or classified sites in the Republic of Uzbekistan and also for State institutions situated outside the territory of the Republic of Uzbekistan, the staff of such institutions and members of their families;

Ensure the safety and protection of the President of the Republic of Uzbekistan and of the heads of foreign States and Governments and the directors of international organizations during their stay in the territory of the Republic of Uzbekistan;

Cooperate with its counterparts in foreign States and international organizations in combating international terrorism;

Organize the work of counter-terrorist units to detect, neutralize and eliminate terrorist groups and organizations;

Exercise other powers in accordance with the law.

Article 10. Counter-terrorism powers of the Ministry of Internal Affairs of the Republic of Uzbekistan

The Ministry of Internal Affairs of the Republic of Uzbekistan shall:

Combat terrorism by preventing, detecting and halting terrorist activities and minimizing their consequences;

Ensure the protection and security of particularly important classified or other sites;

Provide the relevant State and governmental bodies with information concerning individuals, groups and organizations linked with terrorist activities;

Exercise other powers in accordance with the law.

Article 11. Counter-terrorism powers of the State Committee on the Protection of the State Border of the Republic of Uzbekistan

The State Committee on the Protection of the State Border of the Republic of Uzbekistan shall:

Ensure the protection and defence of the State border from incursions by terrorists into the territory of the Republic of Uzbekistan;

Take action to detect and halt the unlawful transfer across the State border of the Republic of Uzbekistan of arms, ammunition, explosives or radioactive, biological, chemical or other toxic substances, objects or materials that may be used for the purposes of committing a terrorist act;

Neutralize or, where resistance is shown, take action to eliminate terrorists in border areas or border zones;

Exercise other powers in accordance with the law.

Article 12. Counter-terrorism powers of the State Customs Committee of the Republic of Uzbekistan

The State Customs Committee of the Republic of Uzbekistan shall:

Take action to prevent, detect and halt attempts to carry out the unlawful transfer through crossing points of the State border of the Republic of Uzbekistan of narcotic or psychotropic substances, explosives, explosive devices, armaments, arms and ammunition, nuclear, biological, chemical or other types of weapons of mass destruction or materials and equipment that may be used for terrorist acts;

Exercise other powers in accordance with the law.

Article 13. Counter-terrorism powers of the Ministry of Defence of the Republic of Uzbekistan

The Ministry of Defence of the Republic of Uzbekistan shall:

Ensure the security of the airspace of the Republic of Uzbekistan and defend and protect the administrative, industrial and economic centres and regions of the country and important military and other sites from aerial attack;

Ensure the protection and defence of military sites under its control;

Participate in counter-terrorist operations;

Exercise other powers in accordance with the law.

Article 14. Counter-terrorism powers of the Ministry of Emergency Situations of the Republic of Uzbekistan

The Ministry of Emergency Situations of the Republic of Uzbekistan shall:

Coordinate on-site activities of ministries, State committees, departments and bodies, adopt measures to protect the population from emergency situations, ensure the reliable functioning of particularly important classified and other sites that might be targeted by terrorists and also eliminate the effects of terrorist acts;

Exercise other powers in accordance with the law.